## IMPORTANT INFORMATION ON TRANSFERS[1] FROM 403(b) OR 457 PLANS TO PURCHASE ARSC AND THE FEDERAL TAX LAW

Assembly Bill 719 added section 20909 to the Government Code. This new section allows eligible members of the California Public Employees' Retirement System (CalPERS) to purchase up to five years of Additional Retirement Service Credit (ARSC). ARSC is not based on actual employment with a CalPERS covered employer. Instead, it is "permissive" service credit available to members to increase their retirement by making voluntary, additional contributions.

The Internal Revenue Service (IRS) has not yet issued formal rules on purchases of permissive service credit. Some have suggested that the Internal Revenue Service (IRS) will require the purchase of permissive service credit to reflect some sort of actual "service" in order for in-service, plan-to-plan transfers[1] from 403(b) or 457 governmental plans to be used to pay for ARSC. As a result, CalPERS is acting prudently by requiring members to certify to "corresponding service" before assets from 403(b) and 457 plans may be transferred in-service to purchase ARSC. The corresponding service may be for compensated private sector or self-employment, as well as prior government or military service that has not been credited under the CalPERS plan.

However, there is a slight risk that even with certifying to the "corresponding service," the IRS may find that in-service transfers from 403(b) or 457 plans are not permissible to purchase ARSC. In this event, CalPERS may be required to take corrective measures, such as reversing the transferred amounts and related earnings back to the transferor plan. Alternatively, the IRS could treat the amount transferred from these accounts as taxable income on the date it was transferred. In addition, the transfers made to the CalPERS defined benefit plan might be treated as after-tax contributions and subject to the $41,000 annual additions limit imposed by section 415(c) of the Internal Revenue Code.

To help CalPERS members achieve the greatest amount of portability of their retirement accounts with the least amount of risk, CalPERS is requesting a ruling from the IRS that amounts may be transferred from a 457 plan to the CalPERS defined benefit plan to purchase ARSC without corresponding service. Therefore, in the interim, CalPERS is including this notice to members so they are aware of the potential risks associated with in-service transfers from 403(b) and 457 plans to purchase ARSC. Members should be aware of these risks, however slight, before electing an in-service transfer of funds from these accounts to purchase ARSC.

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[1] An in-service, plan-to-plan transfer (also referred to as an in-service transfer) is a direct transfer of assets between retirement plans in which the funds go directly to CalPERS. An in-service transfer allows a participant to avoid current taxation on the amount transferred and, unlike a rollover, it is permitted in the absence of a distribution event (i.e., separation from service, retirement, disability, or death).